CIVILIAN DRUG TESTING PROCEDURES

Objectives

- Provide update on random drug testing for medical civilian personnel
  - Background
  - Criteria to Identify Testing Designated
  - Positions (TDPs)
  - Employees covered
  - Letter of Instruction – timeline,
  - Responsibilities

Training Goals

- **Answer the Questions:**
  - **Why am I here?**
  - **Who Said?**
  - **What do you want me to do?**

Background

- MEDCOM concern since late 80’s
- MEDCOM request submitted May 2001
- **Final OSD/Army approval received 7 Aug 03**
- Army Surgeon General 18 Sep 03 policy urged implementation NLT end 2nd Qtr, FY04

Civilian Biochemical Testing

- AR 600-85, Chapter 14
- DA PAM 600-85
- DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs.
- Executive Order 12564--Drug-Free Workplace.
- DoD Directive 1010.9-DoD Civilian Employee Drug Testing Program

Civilian Biochemical Testing

Six categories of Drug Testing

- Reasonable Suspicion
- Accident
- Voluntary
- Applicant
- Follow-up
- Random Testing of TDPs

Civilian Biochemical Testing

- **Testing Designated Positions (TDPs)**
  - **Those DA civilian employee positions that have been identified by DoD as subject to random drug testing.**
  - **TDPs are characterized by their critical safety or security responsibilities as they relate to the mission of the DoD**

Civilian Biochemical Testing

- **Testing Frequency Requirements. (Random testing)**
  - **DoD and DA require a minimum 50% of the TDPs be tested per year.**
  - **TDPs who are Personnel Reliability Program Enrollees must be randomly tested once every 12 months.**

13 Categories of TDP’S

- **Authorized to carry a firearm**
- **MVO’s who transport passengers at least weekly**
- **MVO’s required to have a commercial license and drive a vehicle weighing more than 26,001 lbs** OR **transport hazardous materials**
- **Required to maintain** TOP SECRET **clearance or have access to** SCI

TDP Categories

- **Railroad Crews**
- **Aviation Flight crew, Air Traffic Controllers, Dispatch, safety inspection, repair and maintenance**
- **ASAP positions involved in direct rehab and treatment services to identified illegal drug users**
- **Personnel Reliability Program Positions**

TDP Categories

- **Supervision or Performance of controlling and extinguishing fires and/or rescuing people endangered by fires**
- **Handling of munitions or explosives**
- **Electroplating critical aircraft parts**

TDP Categories

- **Front line law enforcement with drug interdiction duties who have access to firearms.**
- **Additional positions may be designated, must be approved by MACOM, DA and DOD.**

Civilian Drug Testing

- **Covers approx. 10,000 direct patient care civilian employees**

- **Included are Doctors, PAs, RNs, LPNs, Nursing Assts, Pharmacists, Pharm Techs, PTs, Podiatrists, Dentists, Dental Assts, EMTs, Health Techs, Nucl Med Techs, Med Techs, & Diag/Thera Radiology Techs**

Criteria to Identify TDPs

- **Health Care Positions:**
- **Any employee engaged in a covered activity involving:**
  - **Direct Patient Care**
  - **Body Fluids and Specimen**
  - **Drugs and Medication**

Direct Patient Care

- **Has direct patient contact, or**
- **Performs diagnostic testing, or**
- **Performs therapeutic functions**

Bodily Fluids or Tissues

- Extracts bodily fluids or tissues, or
- Prepares specimens for examination, or
- Performs specialized or non-routine tests, or
- Confirms patients' test results

Drugs and Medication

- **Employee who does any of the following:**
  - **Maintains**
  - **Stores**
  - **Safeguards or provides security**
  - **Performs Data entry related to fills or distribution**
  - **Fills prescriptions for drugs or medicines**
  - **Distributes of drugs and medicines**

PRE-COLLECTION PROCEDURES

Pre-Collection Procedures

- **Random Selection of TDP's for testing**
- **2-hour Window to Report**
- **No Show/Refusal to test Reported to CPAC and next Higher Supervisor**
- **Deferral may be Requested by First Line and Higher Supervisors.**

COLLECTION PROCEDURES

Differences Between Civilian & Military Collection Procedures

- **The MAJOR difference is that civilians are not usually observed directly.**
- **Bluing agent used in commode.**
- **Urine temperature taken within 4 minutes.**
- **Civilian employee receives unlabelled collection container.**
- **Civilians tested only for Amphetamines, Cocaine, PCP, Opiates, and Marijuana**

Challenging Situations

- Shy bladder
- Direct observation
- No Show
- Refusal to test
- Adulteration or substitution
- Unavailability of employee

RESULT NOTIFICATION

PROCEDURES

Results Notification

- All results sent to MRO for review
- MRO will contact Employee and discuss a Positive result.
- The verified results will be reported to the ADCO, who notifies the POC.
- POC notifies CPAC, removes the employee from the TDP, and refers them to the EAP.

REHABILITATION PROCESS

REHABILITATION PROCESS

NEW! EMPLOYEE ASSISTANCE PROGRAM

- **EAP supports a healthy workplace by assisting employees with issues related to life and work.**
- **EAP partners with employees and management in maintaining a Drug Free Workplace.**
- **There is an EAP Manager assigned to assist each community.**

REHABILITATION PROCESS

- **The EAP Manager will refer the employee to helping agencies as needed.**
- **Consent for Release of Information is encouraged but not mandatory.**
- **Employee may be reinstated after successful program completion or by showing progress.**
- **Supervisor may ask for 1 year of Follow-up testing.**

JAG

REPRESENTATIVE

TESTING DESIGNATED POSITIONS

- **AR 600-85 requires ID of drug testable civilian positions**
- **Program requires random testing of TDP employees for on or off-duty use, and directed testing of any employee if reasonable suspicion of on-duty use or on-duty impairment exists**
- **Involves a material change in work conditions**

TESTING DESIGNATED POSITIONS

Program Implementation

- **Employees are presented with agreements**
- **Employee refusals to sign agreements are processed**
- **Implementation requires Attorney involvement only on various aspects (e.g., reasonable suspicion, disciplinary actions)**

Privacy Interest v. Public Good

"There are few activities in our society more personal or private than the passing of urine. Most people describe it by euphemisms if they talk about it at all. It is a function traditionally performed without public observation; indeed, its performance in public is generally prohibited by law as well as social custom."

National Treasury Employees Union v. Von Raab, 816 F.2d 170, 175 (1987).

Case Law: TDPs Are Lawful

- **Defines reasonable searches, by:**
  - **Balancing governmental interests v. individual rights/interests (examining program procedures and nexus between employee's duties and feared violation), resulting in:**
  - **ID of categories of positions that can be random tested w/o suspicion or warrant.**

Case Law: Provides Employee Checks and Balances

- **Ensures our program & procedures are lawfully & fairly implemented & administered, by**
  Reviewing employee appeals (at MSPB, EEOC & Federal Courts), resulting in corrections to existing or evolving deficiencies.

CPAC

REPRESENTATIVE

“HOT DRUG TEST”

- **Immediately suspend duties which make the position a TDP**
- **Immediately suspend clearance or access to SCI**
- **Determine if you can detail the employee to other duties**
- **Consult with MER Specialist on disciplinary process**

DISCIPLINARY OPTIONS

- **Reassignment**
- **Suspension**
- **Change to Lower Grade**
- **Removal**

ACCOMMODATION

- **Illegal drug use not a handicap as defined by the Americans With Disabilities Act**
- **Not required to accommodate illegal drug use under the Americans With Disabilities Act**
- **Last Chance Agreements no longer required**

CPAC Administration

- **Before you leave this training**
  - **Please fill out and Turn In to Your POC:**
    - **1. Evaluation form**
    - **2. DA Form 5019 (Print Clearly)**

Questions??

Question # 1

- **1. Civilian Biochemical Testing is mandated by**
  a. **AR 600-85, Chapter 14**
  b. **DHHS mandatory Guidelines for Federal Workplace Drug Testing Programs**
  c. **DOD Directive 1010.9 DoD Civilian Employee Drug Testing Program**
  d. **All of the above**

Answer D: All of the above

Question # 2

- There are Six categories of Drug Testing
  a. True
  b. False

Answer A. True

Question # 3

- **Name the Six Categories of Drug Testing**
  a. **Reasonable Suspicion, and Accident**
  b. **Voluntary and Applicant Testing**
  c. **Follow-up and Random Testing of TDPs**
  d. **MY Boss says I have to test**

Answer A, B, and C

Question # 4

- **TDPs are characterized by their critical Safety or Security responsibilities as they relate to the mission of the DOD**
  a. **True**
  b. **False**

Answer A: True

Question # 5

- **TDPs who are in the Personnel Reliability Program are required to be randomly tested once every 12 months**
  a. **True**
  b. **False**

Answer A: True

Question # 6

- **Within the 13 Categories of TDPs, which one does not belong?**
  - **a. MVO's who transport passengers @ least weekly**
  - **b. Individuals with TS clearance or have access to SCI**
  - **c. Individuals who have direct patient care**
  - **d. EMTs/Firefighters**
  - **e. None of the above**

Answer E: None of the above. All are TDPs

Question # 7

- **Pre-Collection Procedures: An employee after being randomly selected has a**
  a. **1 hour window to report for testing**
  b. **2 hour window to report for testing**
  c. **3 hour window to report for testing**
  d. **4 hour window to report for testing**

Answer B: 2 hour window to report for testin

Question # 8

- **The Major difference between Civilian and Military collection procedures is**
  a. **Civilians are not usually observed directly**
  b. **Bluing agent used in commode**
  c. **Urine temperature taken within 4 minutes**
  d. **All of the above**

Answer D: All of the above

Question # 9

- **Results Notification: All results are sent to MRO for review and the MRO will contact the employee and discuss a positive result.**

a. **True**

b. **False**

Answer A: True

Question # 10

- **Employee Assistance Program is not just for individuals who have alcohol and drug problems. Anyone employee who has a problem that may be effecting their job may seek assistance.**
  a. **True**
  b. **False**

Answer A: True

Question # 11

- **Confidentiality will be discussed with all employees during the initial assessment. Consent for Release of Information is encouraged but not mandatory.**

a. **True**

b. **False**

Answer A: True

brought to you by the

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